The true theory of public regulation, therefore, the theory which is best calculated to produce useful results, is to allow the railways to unite with each other in the discharge of their public duties, thereby making it feasible and for their interest to conform in all cases to their published schedules, and to invest the regulating body with authority, after investigation of complaints upon due notice and hearing, to condemn the rates found to be actually or relatively unreasonable and to prescribe, subject to judicial review, a substituted standard to be thereafter observed. If these views are correct and grounded in sound public policy, their speedy adoption will enlarge the benefits and promote the success of railway regulation.

DISCUSSION.

EDWARD P. RIPLEY: For nearly forty years I have had to do with the making of freight rates and the general relation of the public and the railroad. In this, as in all other details of trade and of transportation, there has been a constant process of evolution, which has been but little affected by attempts at legislative restriction or regulation.

Prior to 1880 the railroad was generally regarded as a private institution, operated by its owners purely for private gain, with but very ill-defined duties toward the public. Rates had been originally fixed just low enough to take the business as against wagon transportation, but had declined rapidly from that point by reason of competition between carriers, and because it had been discovered that, within certain limits, business could be stimulated and increased by reductions in rates. But there was natural hesitation about a wholesale reduction of tariffs, and it was found safer and easier to allow the nominal tariff to stand, and to make special rates as needed by refunding a portion of the charges upon certain shipments—and this was the origin of the so-called "rebate system."

Much as this system has been denounced, and many as were the abuses to which it lent itself, there were some things in its favor. A manufacturing establishment, for instance, located upon the line of one of our Western roads properly

demanded a lower scale of rates than those published in the tariff—yet such a scale could not be afforded at the price of a general reduction; and there is no good commercial reason why such an institution, employing say 500 to 1,000 men and creating a centre of population, should pay upon its thousands of tons of coal, for instance, the same rate as the village blacksmith pays for his twenty or thirty tons.

The "wholesale and retail" idea was generally claimed by shippers and admitted by the railroads—*i. e.*, the equity and propriety of a lower rate to the larger shipper. It was not long, however, before railroad men began to see the fallacy of this notion, and to realize that so long as the large shipper obtained the lower rate there would be no small shipper; and so, gradually, the general rule obtained that all those competing for the same business in the same territory were given substantially the same net rate. It would be too much to say that there were no exceptions to this, or that there were not some flagrant cases of discrimination, but they were the exception and not the rule, and while a larger portion of the rates charged were not the rates of the printed schedule, there was but little real injustice done.

But the few cases of wholly unjustifiable discrimination which came to light, and the agitation of a few people, some with real and some with fancied grievances, resulted in the passage of the Interstate Commerce Law, which became effective in 1887. The crudities and absurdities of this law have been often pointed out, and I shall here allude to them but briefly.

Its great defect is in that it contradicts itself in attempting to enforce absolutely stable rates, alike to all, and at the same time fostering unrestrained and unregulated competition —two propositions entirely at variance with each other and impossible to reconcile—and to this fatal defect may be laid the entire failure of the law to accomplish the object sought. For the large shipper still clung to the idea that as he could buy everything else on a lower basis than his small competitor so also should he buy transportation on a lower basis, and he had no respect for any law that sought to hinder him;

and while railroad officers had long discarded this idea as a principle and had fully realized that the wholesale and retail idea as applied to transportation was applicable only to the distance hauled and not to the quantity, yet the tonnage of the big shipper was a powerful argument, and in due course of time prevailed. Moreover, the tendency of the times was, and still is, toward concentration of the leading lines of business into few hands, thus putting the control of an enormous tonnage into the hands of a few men, who were quite willing to violate the law—primarily, of course, for gain, but also because of utter disbelief in its equity or propriety.

(Let me here interrupt myself to say something which may be of interest because so foreign to the general idea.)

The Standard Oil Company, upon the passage of the Interstate Commerce Law announced its intention to neither solicit nor accept any form of rebate or concession, and from that day to this has paid the full published rates, dividing its business between the carriers, in marked contrast to the other so-called trusts. I hold no brief for the Standard Oil Company; it is said to have had its origin in illegitimate advantages in rates; but it is only fair to make this statement—a statement that will be confirmed by every railroad in the country.

Since the passage of the Interstate Commerce Law and the almost co-incident consolidation and concentration of tonnage the rate discriminations have decreased largely in number; that is to say, the beneficiaries are fewer, but the real discrimination has been worse. Under the old system rebates of ten per cent. might be paid to hundreds of shippers, and they were practically all on the same basis; under the new state of things rebates of thirty, forty, or even fifty per cent. were allowed to the " Trust," with the result that there were soon no other shippers.

Let me hasten to say that I am not making a confession. I do not mean that the law was technically violated in all these cases; all sorts of devices served as evasions of the printed requirements of the law—given a desire on the part of a large shipper to get concessions, and a desire on the part of the

railroad to grant them—and it can be done in a thousand ways which it would be difficult, if not impossible, to detect. Of course, the railroads do not want to disobey the law; neither do they want to pay back to the shipper any part of their earnings. If they do it it is because they fear loss of tonnage in case of refusal—and men are but mortal. I am not excusing this, but there are roads which are, under existing conditions, forced to disobey the law or be forced to the wall.

The obvious solution of the difficulty is to cease trying to make men honest by statute and to remove the restrictions which now prevent the railroads from presenting a solid and united front. We are now expressly forbidden to combine, while all the world may combine against us, and so our strength is measured by that of the weakest among us.

The Interstate Commerce Commission has for years been urging that it had not the necessary power to enforce the provisions of the law; that its decisions were either ignored, nullified or appealed from, resulting in little or no relief to complaining parties; that, being by law empowered to hear and pass upon complaints of unreasonable rates, it should be empowered not only to say what is unreasonable, but also to say what is reasonable and to have its decisions respected. On the other hand, it is contended that the law never intended to confer the rate-making power on the Commission, and that its findings can only be properly enforced by proceedings in the regular courts.

And now comes the President of the United States as more or less an ally of the Commission's view.

This recommendation is the result of a constant pressure for more power on the part of the Commission itself, and of agitation on the part of a few individuals who have been able to create an apparent public sentiment. I say "apparent" because it is easy to manufacture what seems to be on the outside a popular demand, by persistent effort and *ex parte* statements. As usual, the railroads have made little effort to defend themselves; but the ceaseless clamor of the Commission and the real or unreal clamor of the public has

reached both the legislative and executive branches of our government and it is now seriously proposed that something be done.

In the effort to divest myself of all class prejudice and to look impartially at the whole question I am constrained to admit the claim that there should be a body whose decisions should be final upon rate questions, and that it is desirable that this body should be specially constituted to deal with such questions. I do not think that this power should be given the present Commission, because it is a prosecuting rather than a judicial body. But if the nation is to assume the power to adjust railway rates, I most urgently insist that it at the same time remove the restrictions which now prevent us from maintaining the rates as fixed. The proposition that the government shall even remotely or partially assume control of railway rates is a long step toward paternalism and in direct contravention of the theory that the country least governed is best governed. Yet I can conceive of conditions under which the settlement of certain questions by an agency distinct from, and superior to, the railroads might have its compensations and be even beneficial. It is a well-known fact that the great majority of cases heard by the Commission are not complaints that rates are too high *per se*, but that they are inequitable as compared with other rates. Each community is jealous of its trade and constantly striving for advantage over its rival, and the adjustment of rates is, with the best of intentions on both sides, a difficult and delicate matter, and there have been cases, and may be again, where the decision of a disinterested and impartial tribunal would be a positive relief. But if the government is to assume regulating functions; if it is actively to supervise rates and transportation; if, in short, the railroad is taken out of the list of purely commercial enterprises and invested in whole or in part with a public character, then it seems to me that it must be so clear as to need no argument that it must be treated more or less as a ward of the government in other ways, and must be protected as well as regulated.

The Sherman Anti-Trust Law and the prohibition of pool-

ing in the Interstate Commerce Law have but one object, one excuse for being on the statute books, namely, to prevent extortion; and if the government assumes to prevent extortion by direct control of rates it certainly cannot concern the public what agreements we make with each other, or what we do with our earnings. Our crying need is for a means by which we may *maintain* the rates. In some cases a simple agreement suffices; in other cases a pool is necessary to an agreement. Both are now prohibited.

I do not wish to be understood as in the least in favor of making the decision of the Interstate Commerce Commission final. I do not think the prosecutor should also be the judge; nor do I think the findings of the Commission should be observed pending appeal, for the reason that if the appeal is sustained the railroad has no redress for its losses; but there might be a small and strictly judicial tribunal of high class, and divorced from politics, to pass upon appeal from the findings of the Commission. The main point, however, is that the government, if it will regulate, must protect; if it limits rates it must, in justice, remove all impediments to the collection of the rates as fixed. Herein only lies consistency and logic.

It will be observed that the conclusions I have reached differ from those of Mr. Knapp in but one essential particular, namely, that he desires the findings of the Commission to be put into immediate effect, while it seems to me that there is no valid reason for this departure from the usual course in cases of appeal. For if the rates fixed by the Commission be not sustained on appeal, there is no redress for the railroad; it cannot collect from the shippers the sums which it has undercharged them; while it is quite feasible for the shipper to collect overcharges in case the rate fixed by the Commission be sustained on review.

The chairman of the Interstate Commerce Commission is a man of broad views and of judicial temperament. I do not think that any of the railroad representatives would raise great objection to his position, except in the one particular I have mentioned.

JOHN H. GRAY: To gather up the different parts of the arguments and show the relation of one to the other in two or three minutes is impossible. I take it there are certain things that are settled, as Mr. Ripley has just indicated, namely, that a railroad is no longer a private institution, but one in which the public has a great, even a paramount interest. It exists to-day as one of the fundamental necessities of civilization. That being the case, it seems to me perfectly plain that the public interest must be maintained, and will in the long run be maintained, and must be maintained in one of two ways, either by an effective public control with private ownership, or by public ownership; and if the control under private ownership cannot be made effective, then we not only will, but, in my opinion, we ought to pass to public ownership. That being the case, I think it follows inevitably that it is unsafe, in human affairs, and especially in a nation commercialized as much as this is, to leave a matter of conflicting interests to be decided by one of the parties. In other words, the government has got to have a hand in making and testing the rates. I don't know of any department in human life in which there are conflicting interests in which it is safe to leave the decision to one of the parties alone. I think Chairman Knapp has done a service in the distinction he has made in regard to the two kinds of evils, or supposed evils, to which the public is exposed. One he designates as criminal acts and the other as administrative acts, subject to administrative adjustment. In regard to the rebates and under-billing, and all the other devices to accomplish the same purpose, I think there is no difference of opinion among the more progressive railroad men or among the scientific students. You can find all sorts of opinions among 76,000,000 people, it is true, but speaking of scientific opinions and of the opinion of progressive and prominent railroad men, I think there is no difference of opinion. There is a great evil, there is an evil that we are all—I mean all the people I have just referred to—convinced cannot be remedied without doing the thing Mr. Ripley has so emphasized, and Mr. Knapp emphasized just at the end of his paper. It is absolutely impossible,

and we all here know it, to stop the rebates and the discrimination of that sort, without authorizing pooling. I think in the last few years we have made some progress in regard to that. I think that, not realizing how strong, or weak rather, the government might be in its attempt to control, we were rather afraid to authorize pooling, but I believe we have made such progress in the last few years that it is not going to be a difficult thing to accomplish, at least for much longer. It is absolutely essential; we all know it. It is not worth while to dwell on it. We must authorize pooling or we cannot stop the other thing. I am going to digress to refer to what Mr. Knapp has used the hard word of "criminality" towards. If we have learned anything in dealing with criminal acts, we have learned that progress is not made by punishing people for such acts, but rather by changing the circumstances so as to reduce the temptation to commit the acts; and the pooling clause is the thing to remove the temptation. Coming now to the other part, namely, the adjustment of the rates in the public interest, if the public ought to have a finger in that, we are right in saying that great progress has been made. Within the last few years, and even within the last few months, we have made what seems to me great progress by at least a less frequent use of the terms "make rates" and "fix rates" in an ambiguous sense. A large part of the discussion—and it has come from various classes of society, and has not been entirely unknown to the railroad world itself—has referred to the fixing of rates in speaking of the Interstate Commerce Commission, as if that Commission were supposed to sit down in its own chambers and out of its own brain evolve a system of railroad rates for all the traffic in the country. Of course that is past. When we talk about giving the Commission power to fix or make rates, we mean—all of us here mean—fixing rates in specific instances after a public hearing and after thorough investigation, and I come now to the point that Mr. Ripley emphasized last, namely, to the fact that, we cannot change the Constitution of the United States, according to which rates, when fixed, are all subject to judicial review. Ought the revised rate, made not *ex parte*, but after thor-

ough investigation by the Commission, the best body that we have yet invented to represent the public interest, which we say must be represented, to be enforcible, or ought it to go into effect before the judicial review? Now we are not going to make very much progress unless we have a distinctly administrative body. I was very much interested in Mr. Ripley's language referring to the prosecuting character of the Commission. There is some justification for that, and I think the justification of that remark is going to become less and less as the time goes on. That Commission ought not to be a prosecuting Commission; it ought to be an administrative Commission, and I believe we are coming to the time when it will be; but I find myself unable to agree with Mr. Ripley in regard to the time at which the findings of the Interstate Commerce Commission should go into effect, respecting judicial revision. It seems to me the proposition he has made in the present state of the popular and the Congressional mind would lead, in some measure, not to the same extent, but to a detrimental extent, to exactly the evils we suffer when we try to settle these things by the ordinary courts—a thing which cannot be done.

WILLIAM Z. RIPLEY: *Mr. President and Gentlemen:* If all the railway men of the country were willing to stand on the ground which has been taken by the President of the Atchison, Topeka & Santa Fe Railroad there would be less prospect of a struggle ahead in Congress in the course of the next year. It seems to me the point that he has stated is an entirely fair one, that it is impossible to expect competition to continue as the underlying principle of railroad rate-making and, at the same time, to expect that the policy of the Interstate Commerce Law of 1887 should be carried out as it is propounded in that law. It seems to me—I have always felt it very strongly—that a large number of railroad abuses, those consisting of inequality in charges, could be readily corrected by the railroads themselves if pooling were not only permitted but were made enforcible in the courts. It was a matter of long and heated discussion before the United States Indus-

trial Commission as to whether a recommendation in favor of pooling in this way should be allowed to creep into its final report, and a good many of us who were working for that Commission regretted exceedingly that it did not contain and recognize the possibility of remedial action by the railroads for correcting many of these abuses. Concerted action should be not only permitted but made a legally enforcible matter. On the other hand, if you are going to grant such power—and I think it is highly doubtful in the present state of public opinion if it will be granted; but supposing some concerted policy as to rates could be allowed—it seems also surely true that the public's interest in such concerted policy must be safeguarded by some means of revision. Whether that revision shall be made by an administrative commission, as at present proposed, or whether it shall be by a court, is a matter of detail. Experience with courts in foreign countries, so far as I know, shows precisely the same evils which we have—those of intolerable delay, those of great expense to the persons who seek redress, and of other evils of which we have not time to speak. At all events, if we could possibly grant the right of concerted action, and add to it a supervision, with power of revision by the courts ultimately, if you please, but permitting the first decision of the administrative board to hold until the matter is finally settled in the courts; it seems to me the interest of the two parties in this great controversy could be settled for good.

HARRY T. NEWCOMB: The questions I wish to suggest are, first, whether the evils, which undoubtedly exist to some extent, are great enough to justify this radical departure from approved legislative practice; and, second, whether the remedy suggested is adapted to the evils that exist. It may serve to make the discussion clearer if I say at the outset there is no proposition before the Congress, and scarcely any before the people, which is aimed at the eradication of the rebate system, although it is true a paragraph in the President's message does recommend the enactment of legislation to prevent railway rebates. The suggestion made by Mr. Ripley

that pooling be legalized, is applied to the eradication of rebates; but I don't know that there is any substantial sentiment in Congress in favor of the enactment of a pooling law. As to the magnitude of the evils alleged to exist, Mr. Ripley very well said that this sentiment has been manufactured. There has been a very active propaganda at work in the effort to make people believe that terrible evils exist in connection with railway rates. I am not speaking with regard to rebates. I will go as far as any one in endorsing any legislation fairly aimed at the removal of rate-cutting and under-billing and all secret devices by which one person is favored over another person. Now, in the adjustment of the schedules, we have had the Interstate Commerce Commission at work for seventeen years, and it has decided 353 cases, and out of the 353 cases which it has decided, it has decided precisely 194 in such a way that if everything was done which it recommended should be done, some relief would have been gained to the complainant; that is just a trifle more than ten cases a year for seventeen years. Now, when we refer to those facts, the suggestion is always made that if the Commission had more power, it would have more cases to decide; but for ten years, as the Commission says in the reports which were submitted to Congress two weeks ago, it did exercise, or claim to exercise, and held out to the people of the country that it had the right to exercise precisely the power which it is asking for now; and in that ten years it did not, on the average, decide as many cases as last year, and did not have as many complaints by about 50 per cent. as last year. The average of complaints during the first ten years was about 40. The number of complaints for last year was 63. Now, as I said, 194 cases have been decided in favor of the complainants. Some of these cases have gone to the courts. The Commission made a report to Congress not many years ago in which it gave the result of the orders which it had made commanding railways to change rates. That report covered 107 cases, and the Commission reported to Congress that in 58 of these cases the railways had fully and completely complied with its order. In 11 more it said there had been par-

tial compliance, and in another it said some changes had been made. It is to be observed in regard to those 12 cases that the compliance had was at least sufficient so that neither the complainants nor the Commission went into the courts for the enforcement of its orders. Therefore, we may say in 70 out of 107 cases compliance with the orders of the Commission was substantially complete, and the relief asked for was obtained through the Commission without its having the power to order a rate or the power to issue a final decree which would be in force pending an appeal. Forty-three cases during the history of the Commission have gone to court; in two cases the order of the Commission has been sustained. There are a few cases pending, six or seven. Is this remedy adapted to the evils that are claimed to exist, if they do exist? Look at the states where rate-making is maintained. Has any fair inquiry been made to compare the conditions in those states as to state rates and state shipments, with the conditions in other states where they don't have rate-making commissions? Ask some of the shippers in the state of Illinois whether the rates in this state are lower or higher than the rates in Michigan and Ohio and Indiana. Ask the citizens of Georgia, where they have had a rate-making commission for many years, whether their state rates are lower or higher than in other states. Only the other day the Atlanta *Journal* reported editorially that it was impossible to get reasonable rates within the state of Georgia, although interstate rates were reasonable and were not more than half as high, and it gave as its reason that if the shipper went to the railway asking for a low rate in the state of Georgia, he was told the railroad had nothing to do with that, it was in the hands of the railroad commission; but if he asked for the interstate rate he got it, because the railway had the power to give it.

F. B. THURBER: What I have to say is largely from the standpoint of a shipper. I have been a shipper by railroad for many years and now represent other shippers. It seems to me that this whole discussion, as presented to us here to-day, is coming down pretty close to two points, and that is whether we should have an amendment of the Inter-

state Commerce Law which will give the Commission the right to prescribe rates, and have those rates go into operation before they are reviewed by the courts; and also as to whether we shall authorize agreements between carriers under the name of pooling or otherwise. I represent a class of shippers, and I believe to-day a great majority, who think the railroads are not as unreasonable as the class of shippers who are now agitating for amendment seem to think they are. Everybody, I think, is against unjust discrimination. The question is how this may be remedied. My own belief, and the belief of many shippers who think as I do, is that in amending the Interstate Commerce Law, the findings of the Interstate Commission as to what rate is reasonable should not go into effect until they have been reviewed by the courts. It is too much like hanging a man first and trying him afterwards. We believe, however, that there is a just complaint against the delay of the courts in arriving at decisions, and that this may be best met by the constitution of a new court—a court exclusively charged with the consideration of these questions—which could take up the findings of the Interstate Commerce Commission and speedily adjudicate them. A court would have a permanency, which the Interstate Commerce Commission has not in its membership, and would thereby be less exposed to political and other influences than the members of the Interstate Commerce Commission are. We were fortunate in establishing the Interstate Commerce Commission to have a jurist like Judge Cooley as its first chairman. We are fortunate in having as its present chairman a man like Judge Knapp, and I believe if all his associates were as judicial and able as Judge Knapp that we would not have 93 per cent. of the decisions of that Commission reversed, as they have been—that is, 93 per cent. of those decisions which reached the Supreme Court of the United States—hence we should, I think, address ourselves to these two points, first, as to having some means established by which the decisions of the Interstate Commerce Commission can be speedily reviewed; and second, to give railroads the same right to contract that every other individual and every other corporation in this country has.

WILLIAM F. FOLWELL: *Mr. Chairman and Gentlemen:* I feel disposed to use a minute or two in what I am sure many of you will think an unnecessarily radical and revolutionary proposition; but when I hear discussions upon rates of this kind, interesting as they are and valuable as they are, I still think there is a deeper question in regard to rates which ought to be had in mind. We have been discussing rates from the standpoint of railway ownership. We have not discussed them from the standpoint of the general public. All the speakers, I think, have agreed, and all others will agree, that the railway has become a public carrier; it is a servant of the public through and through. It cannot be regarded any more as a private common carrier. Now, I wish to make this revolutionary proposition, that transportation has become absolutely necessary to every individual. I cannot live unless the railroad brings to my door the means of subsistence; it is absolutely impossible. I submit this proposition, and I will take the risk of being called socialistic, that there should be no more chance to make money out of transportation than there is in carrying the mails. What do you think of that? I think that is a proposition you ought to consider. There should be no opportunity of exploiting the public by means of this absolutely necessary function, and I am going so far in my teaching as to say this. I am not in favor of government ownership, but I am in favor of an arrangement by which railroads shall be constructed and operated in such a manner as to pay the wages and salaries, all the salaries necessary to secure the very best talent; to pay a fair interest on all the capital or all the wealth that is actually in the road and no more; to maintain a fund for maintaining the road, and for such extensions as may be necessary; and for paying a fair, ordinary tax; and then when all these expenses have been paid any excess of income should go into the public treasury. That would make the business of rate-making simple. Another thing to be remembered when rate-making is under discussion, which has been omitted altogether this morning, is classification. When this has been established your rate-sheet is half made.

EDWARD P. RIPLEY: In the first place, I would like to discuss for a moment the suggestion made by Professor Gray as to the desirability of making the decisions of the Interstate Commerce Commission effective at once. The objection to that, in my mind, is that it reverses all legal practice and is—as was stated a little while ago—like hanging a man first and trying him afterwards, especially in view of the fact that a great majority of the cases which have been appealed from the Interstate Commerce Commission have been decided adversely to the Commission, and that in case of a decision adverse to the Commission there is no way by which the wronged party—that is the railroad—can get redress. If the Commission says that one dollar is too high and the rate must be 80 cents, and the railroad must go on charging 80 cents until the decision of the Commission is reversed, what redress has the railroad? On the other hand, if the practice is reversed from that, and the railroad is permitted to go on charging the old rate until the decision is sustained, every shipper has recourse against the railroad. They might make the railroad give a bond, if you please. It would be manifestly unfair that any party to the controversy should be injured to that extent pending the settlement of the controversy itself.

One other word as to the point made by the last speaker. I don't represent or speak for all the railroads in the United States, but I think their owners would be very glad to accept some such proposition as he suggests, namely, that the government guarantee a fair interest and fair return on their present value and take the surplus. Furthermore, as to his allusion to the postoffice and the comparison made between the postoffice and the railroad, I will agree to organize a syndicate which shall take the transportation of the government mails off its hands, shall do the business in every respect as well as it is done now, and not charge eight, nine or ten million deficit as is now charged.

EDWARD B. WHITNEY: I represented the Interstate Commerce Commission at the time of these cases which have been alluded to, when it was decided that they could not "make

rates." What the Commission wanted to do was, when they found that a rate was unreasonable, to say "You shall reduce it to not above such and such a figure." The Court did not allow them to do that, and therefore their decisions became practically a nullity. I saw a good many of their decisions at that time. Some of them were better than others; but it seemed to me that their work in those times was distinctly superior to that which was done by the judges who reviewed them. As I said earlier here to-day, the cases were not heard by the Commission on the evidence on which they were heard by the court. The best known was the Alabama Midland case, where the railroads put in a little evidence before the Commission; the order was made, and then they went and put in a large volume of depositions before the court. It was on those depositions, on which the Commission never passed at all, that the railroads won. One of the points in that case was whether a town called Columbus, Georgia, should have a better rate than Troy, Alabama. Columbus got a better rate because it had competition by the Chattahoochee river. The facts turned out to be that the Chattahoochee river is navigable—only six months during the year—to vessels not drawing over three and a half feet of water, although the navigation is much interfered with by over-hanging trees. I hope too great weight will not be put on the argument that the courts reverse the Commission. The Commission was differently constituted then. I have not had occasion to read their recent decisions. They may be as bad as the railroads say they are. But it seems to me that if you ever do have a commission to make rates or fix rates, it ought to be a commission whose decisions on questions of fact are final and should not be reviewed by any court at all. Have the court decide only whether the great principles of law have been observed, as by giving the parties due notice and a hearing.

HORACE WHITE: The crux of this question as between Mr. Ripley and Judge Knapp appears to be, how are the railroads going to get their money back in case an appeal is made and they win the appeal? He says the railroads can, if neces-

sary, give a bond. Why can't the plaintiff give a bond also? I have been engaged in litigation where I took an appeal, and I was required to give a bond whether I wanted to or not.

TENDENCIES IN RAILWAY TAXATION.

HENRY C. ADAMS.

In searching for the trend of railway taxation, it would be an error to assume the existence of a separate and independent system of corporate taxes. This assumption has been frequently made by writers upon American finance, but in so doing they fail to distinguish between the underlying principles of a system of taxation, on the one hand, and the machinery for administering that system, on the other. So far as methods of assessment and collection are concerned, it is true that railway corporations are placed in a class by themselves, but it is not true, speaking generally, that the theory of public contributions applied to them differs from the theory which is applied to other classes of property. That system of taxation known as the general property tax, is as strong to-day as it ever was in the history of our country; indeed it is stronger, if we are to judge from the changes that have taken place in the laws of the states during the past twelve years.

DISTINCTION, IN TAXATION, BETWEEN RAILWAY AND OTHER PROPERTY.

A glance at the laws of railway taxation in the several states and territories gives ample support to the claim that these laws fail to introduce any new principle into the established system of local taxation. Including the District of Columbia, and excluding Alaska from the list, local government in the United States is represented by fifty states and territories. Of this number only two, Rhode Island and the District of Columbia, make no distinction in the matter of taxation between railway property and other property. That